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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|-----------------------|------------------|
| 09/617,065 | 07/13/2000 | Norman Understein | 2802-5(AMK) | 7218 |
| 23117 | 7590 | 01/30/2007 | EXAMINER | |
| NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203 | | | GREENE, DANIEL LAWSON | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3694 | | |

| SHORTENED STATUTORY PERIOD OF RESPONSE | MAIL DATE | DELIVERY MODE |
|--|------------|---------------|
| 3 MONTHS | 01/30/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|----------------------|--------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/617,065 | UNDERSTEIN, NORMAN | |
| | Examiner | Art Unit | |
| | Daniel L. Greene Jr. | 3694 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 April 2006.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-9 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

SUBSTITUTION FOR PREVIOUS OFFICE ACTION

The previous Office action mailed 6/27/2006 is hereby withdrawn and the instant Office action substituted in its stead. This substitution is necessary due to a typographical error in said previous Office action.

Mr. Alan Kagen contacted the Examiner on 1/2/2007 in response to the Notice of Non-Compliance mailed 12/13/2006. A review of section 6 of said previous Office action indicates that Walker Patent Number 5,794,207 ('207) was entered instead of Walker Patent number 6,240,396 ('396) as indicated on PTO-892 attached to said previous Office action.

Applicant responded to said Office action on 9/27/2006 in accordance with the patent number disclosed in said section 6, i.e. 5,794,207. Since the rejection was based upon '396 NOT '207, applicant's response was directed towards the wrong Walker patent.

Accordingly, the instant Office action has been updated and Applicant is respectfully requested to direct any arguments towards the rejection as applied to Walker patent number 6,240,396.

Any inconvenience to Applicant is deeply regretted.

DETAILED ACTION

1. Claims 1-9 are pending. Claims 1 and 7-9 have been amended in this communication filed 4/12/06 entered as Response After Non-Final Rejection.

2. The claim objections for Claims 1 (b), 7, 8, and 9 (a) has been overcome by Applicant's amendment to claims 1(b), 7, 8, and 9(a) and is hereby withdrawn.
3. The 35 USC 112 second paragraph rejection for Claim 1 (b), claim 7, claim 8, and Claim 9(a) has been overcome by Applicant's amendment to claim 1(b), claim 7, claim 8, and claim 9(a) and is hereby withdrawn.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 6,240,396) Walker et al, here after Walker in view of (US 7,020,632) Kohls et al, hereafter Kohls.

As per claim 1, Walker discloses, A method of qualifying a participant over a global network in a transaction requiring a transfer of funds from the participant using a qualifying system, the method comprising: (a) the participant establishing a consumer funding account by depositing funds in the consumer funding account, the consumer funding account to be administered by the qualifying system (col. 7, line 49- col. 8, line 63, figure 7A –“prior to any trading, the credit card issuer is contacted by the central controller. As part of a registration, the customer is given an identification and password for the system. (b) the participant entering a transaction requiring a transfer of funds from the participant to vendor (col. 8, lines 6-25); (c) the qualifying system reserving a portion of the consumer funding account according to a transaction parameter determined by at least one of the qualifying system the participant or vendor (col. 6, lines 13-30 and col. 7, line 58-col. 66). Walker failed to disclose, (d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter. Kohls discloses (d) the qualifying system qualifying the participant for the transaction if the consumer funding account satisfies conditions of the transaction parameter (col.7, lines 41-47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a qualifying system and to modify in Walker because such a modification would allow Walker’s system to have a qualification process to include the deposit of funds or other assets with a system prior to any trade by the customer receiving a confirmation through the system that the customer has the right to sell and that the customer has sufficient funds to make the bid.

As per claim 2, Walker discloses, A method according to claim 1, wherein the transaction parameter is a required deposit (col. 7, line 58-col. 8, line 13).

As per claim 3, Walker discloses, A method according to claim 1, wherein the transaction parameter is an amount of funds required to complete the transaction (col. 13, line 26-col. 14, line 56).

As per claim 4, Walker discloses, A method according to claim 1, wherein step (c) is practiced by reserving a first portion of the consumer funding account corresponding to a required deposit and reserving a second portion of the consumer funding account corresponding to an amount of funds required to complete the transaction (col. 6, lines 13-30, col. 7, line 61-col. 8, line 63, and col. 10, lines 55-60). Walker did not expressly disclose an amount (portion) corresponding to the amount of funds required to complete the transaction in addition to a required deposit. However, Kohls discloses these steps in col. 16, lines 36-57). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Walker to add an amount (portion) corresponding to the amount of funds required to complete the transaction in addition to a required deposit to allow the system to settle the accounts and to provide a means for modifying the bids.

As per claim 5, Walker failed to disclose Kohls discloses, A method according to claim 1, further comprising releasing the reserved portion of the consumer funding account when the transaction is completed. Kohls discloses, A method according to claim 1, further comprising releasing the reserved portion of the consumer funding account when the transaction is completed (col. 10, lines 42-59). It would have been

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obvious to one having ordinary skill in the art at the time the invention was made to modify Walker because such a modification would allow Walker to execute, clear, and settle all trades as well as appropriate means to manage trader accounts and provide necessary security to all transactions.

As per claim 6, Walker and Kohls failed to disclose, A method according to claim 1, wherein step (c) is practiced by querying a network website server that maintains the consumer funding account. It would have been obvious to one having ordinary skill in the art at the time the invention was made to query a network website server that maintains the consumer funding account and to modify in Walker because such a modification would allow Walker's system to have a website on the Internet that is accessible to consumers with the ability to browse (query) the different trading accounts.

As per claim 7, Walker discloses, A computer system for effecting qualifying of a participant over a global network in a transaction requiring a transfer of funds from the participant to a vendor, the computer system comprising: at least one user computer running a computer program that requests information according to a transaction inquiry input by the participant (col. 4, lines 1-6 and col. 6, lines 45-64) Walker and Kohls do not expressly disclose a system server running a server, the at least one user computer and the system server being interconnected by a computer network, the system server. However, Kohls discloses, a host computer that performs all of the administrative functions, the at least one user computer (col. 13, lines 46-65) and the system server being interconnected by a computer network (col. 13, lines 63-65). Kohls does not

expressly disclose the system server. However, in col. 13, lines 39-45 disclose any other type of network intercommunication means that supports interactive data transmission which could include a server.

This independent claim is also rejected for the similar rationale as given above for claim 1.

As per claim 8, Walker and Kohls failed to disclose a computer program embodied on a computer-readable medium. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a computer program embodied on a computer-readable medium and to modify in Walker because such a modification would allow Walker to have the ability to implement a method and system for qualifying a participant with steps corresponding to the method and system steps of claims 1 and 7. This independent claim is rejected for the similar rationale as given above for claims 1 and 7.

As per claim 9, This independent claim is rejected for the similar rationale as given above for claims 1 and 7.

Response to Arguments

7. Applicant's arguments with respect to claim1-9 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hambrecht et al (US 6,629,082) disclosed qualified potential purchasers and non-qualified potential purchasers.

9. Examiner's Note: The Examiner has cited particular columns and line numbers in the references as applied to the claims for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Inquiries

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel L. Greene Jr. whose telephone number is (571) 272-6876. The examiner can normally be reached on Mon-Fri 8:30am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P. Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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2007-01-10


ELLA COLBERT
PRIMARY EXAMINER